

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

973 CRIMINAL WRIT PETITION NO.840 OF 2023

PRATAP GULABRAO KAKADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Shahaji B. Ghatol Patil
APP for Respondent – State : Mr. S.N. Morampalle

...
CORAM : R. M. JOSHI, J.
DATE : 4th JULY, 2023

PER COURT :

. Heard.

2. This petition takes exception to the condition No.2, imposed by the learned Judicial Magistrate First Class, Sailu in order dated 18.04.2018 while releasing the vehicle i.e. Tractor and trolley of Mahindra and Mahindra Company bearing Registration No. MH-22-AD-2748 in favour of the petitioner directing him to deposit the amount of penalty of Rs.6,21,000/- with Tahsildar, Sailu.

3. This Court in the case of **Montecarlo Ltd. Iron Triangle (Joint Venture), Ahmedabad vs. State of Maharashtra and others, Writ**

Petition No. 7187 of 2021 with connected matters decided on 08.09.2021 held that ‘such condition cannot be imposed as it is open for petitioner to challenge the order of determination of the penalty by Tahsildar by filing appeal.’ The said determination of penalty is not final. Hence such condition cannot be imposed. This Court concurs with the said judgment. The condition imposed by learned JMFC in Clause no.2 of operative part of impugned order cannot switch. Hence following order is passed.

ORDER

- (i) The Criminal Writ Petition is allowed.
- (ii) Clause no.2 of the order dated 18.04.2018 passed by learned Judicial Magistrate First Class, Sailu, Dist. Parbhani is set aside.

[R. M. JOSHI]
JUDGE